

REMARKS

By this Amendment, claims 18, 25 and 32 are amended and claims 1-17 and 33-36 are canceled, without prejudice to or disclaimer of the subject matter recited therein.

Accordingly, claims 18-22 and 24-32 are pending in this application. The specification is amended to correct a minor informality and to include further reference to subject matter recited in original claims 26, 27, 29 and 31. No new matter is added. Reconsideration of the application is respectfully requested.

Applicants appreciate the courtesies shown to Applicants' representative by Examiner Smoot in the March 13 personal interview. Applicants' separate record of the substance of the interview is incorporated into the following remarks.

As discussed at the interview, non-elected claims 1-17 and 33-36 are canceled to expedite prosecution. Claim 18 is amended to positively recite the membrane in the body of the claim. Claims 25 and 32 are amended to be in independent form, and thus are not narrowed by such amendments. As requested by the Examiner at the interview, the specification is amended to remove any issues regarding the written description requirement and to avoid any objection to the disclosure.

Applicants gratefully acknowledge the indication that claims 25-27 and 32 contain allowable subject matter. As noted above, claims 18 and 25 are rewritten in independent form. Accordingly, allowance of claims 25-27 and 32 is respectfully requested.

The Office Action rejects claims 25-27 under 35 U.S.C. §112, first paragraph, as not being enabled. The Office Action separately rejects claims 26 and 27 under 35 U.S.C. §112, first paragraph, as not being enabled. The Office Action separately rejects claims 29 and 31 under 35 U.S.C. §112, first paragraph, as not being enabled. These rejections are respectfully traversed.

As agreed during the personal interview, these rejections under 35 U.S.C. §112 should be withdrawn.

The specification as originally filed, in the Detailed Description section, describes that the second layer of material may be removed prior to removing the protective layer by a lateral etch. See, for example, paragraphs [0044] - [0047]. Thus, the assertion set forth in the Office Action is in error.

The specification as originally filed, not only in the original claims, but also in paragraphs [0016] and [0017], provides support for the subject matter recited in claims 26, 27, 29 and 31. As requested by the Examiner, paragraphs [0049] and [0051] are amended to provide further explicit reference to this subject matter.

It is respectfully submitted that a person of ordinary skill in the art would have been enabled to practice the subject matter recited in claims 25, 26, 27, 29 and 31 without undue experimentation based on the specification as originally filed. Thus, claims 25, 26, 27, 29 and 31 fully satisfy the requirements of 35 U.S.C. §112. Accordingly, withdrawal of the rejection is respectfully requested.

The Office Action rejects claims 25-27 under 35 U.S.C. §112, first paragraph, as indefinite. As discussed at the personal interview, this rejection is overcome by the amendment of claim 25 into independent form, including the subject matter recited in original claims 18 and 23, which was incorporated into claim 18 by the August 29, 2003 Preliminary Amendment. Accordingly, withdrawal of the rejection is respectfully requested.

The Office Action rejects claims 18, 19 and 21-22 under 35 U.S.C. §102(b) over U.S. Patent No. 4,740,410 to Muller et al. (Muller); rejects claim 20 under 35 U.S.C. §103(a) over Muller in view of U.S. Patent Application Publication No. 2003/0071015 to Chinn et al. (Chinn); rejects claim 18 under 35 U.S.C. §102(e) over U.S. Patent Application Publication

No. 2003/0152815 to LaFollette et al. (LaFollette); rejects claims 18, 24, 28 and 29 under 35 U.S.C. §102(e) over U.S. Patent No. 6,587,613 to De Natale; rejects claims 30 and 31 under 35 U.S.C. §103(a) over De Natale in view of Chinn. These rejections are respectfully traversed.

In each of the rejections, the Office Action explicitly states that the feature of a membrane of a structural material for a micro-device recited in the preamble of claim 18 has not been given patentable weight. As discussed during the personal interview, claim 18 is amended to positively recite "that the second layer of structural material forms the membrane for the micro-device" in the method of claim 18. Therefore, it is respectfully submitted that this feature must be given patentable weight.

As mentioned during the personal interview, none of the applied references discloses or suggests this feature. For example, Muller relates only to a method for fabricating mechanical elements such as movable joints, levers, gears, sliders and springs. See column 1, lines 5-10. LaFollette, De Natale and Chin also fails to disclose or suggest fabricating a membrane of a structural material for a micro-device as recited in claim 18.

Therefore, it is respectfully submitted that claim 18 is patentable over the applied references, alone or in permissible combination. Claims 19-22, 24 and 28-31 are patentable over the applied references at least in view of the patentability of claim 18 from which they variously depend. Accordingly, withdrawal of the rejections is respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 18-22 and 24-32 are earnestly solicited.

Should the Examiner believe that anything further would be desirable to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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